IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 36191 of 2007(H)

PETITIONERS:
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1. **THE MUTUAL AID BANKERS,**
   CHITTOOR ROAD, ERNAKULAM AREA, PROVIDENCE ROAD,
   KOCHI-18, REPRESENTED BY ITS FOREMAN, P.L.NAVIS.

2. **P.L. NAVIS, AGED 68,**
   S/O. LATE SRI.LEONS, RESIDING AT PEYOLI HOUSE,
   PADAMUGHAL, KAKKANAD P.O, KOCHI-30.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENT:

MRS. ANNIE GOMES, W/O.SRI.JOSEPH GOMES,
ARED 62, SEA VIEW COTTAGE, VALLARPADAM,
ERNAKULAM DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.36191 OF 2007

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Dated this the 7th day of December 2007

JUDGMENT

This writ petition is filed for a direction to the Sub Court, Ernakulam to dispose of Ext.P3 petition before proceeding further in E.P.No.39 of 2004 in O.S.No.321 of 2003. The grievance of the petitioners is that the property worth about 40 lakhs which is a part of their residential compound had been sold for paltry amount of Rs.1,81,000/- and thereby substantial injustice has to be done to them. It is seen that the petitioners have not moved any application for setting aside the sale as required by law and they have filed the application before the court below after one year after the confirmation of sale. Learned counsel would submit that the decisions of the Apex Court and this Court that only a portion of the property need be sold had not been considered by the court below and it has affected the whole sale and therefore at least an opportunity of being heard in that application be given to them.

Therefore, I am inclined to grant one chance for them to prosecute Ext.P3. Needless to say that it may not be proper to deliver the property

when such an application is ordered to be heard. Therefore, I direct the court below not to effect delivery of the property, if the delivery is not effected till 10.55 a.m. on 7.12.2007 and in case delivery is effected, the delivery shall not be recorded till a decision is taken on Ext.P3 application.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-